

Senate Bill No. 451

CHAPTER 41

An act to amend Sections 6601.3, 6601.5, and 6602 of the Welfare and Institutions Code, relating to sexually violent predators, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 26, 2000. Filed with
Secretary of State June 26, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 451, Schiff. Sexually violent predators: commitment petitions.

Existing law establishes procedures under which a person under the jurisdiction of the Department of Corrections may be referred for evaluation at least 6 months prior to the person's scheduled date for release from prison if the director determines that the person may be a sexually violent predator, as defined. Existing law provides, under certain circumstances, that this person may be required to stand trial, be found beyond a reasonable doubt to be a sexually violent predator, and be committed for 2 years to the custody of the State Department of Mental Health for treatment and confinement in a secure facility until his or her diagnosed mental disorder has so changed that he or she is not likely to commit an act of sexual violence.

Existing law authorizes the Board of Prison Terms to order that a person referred to the State Department of Mental Health remain in custody for a full evaluation for no more than 45 days, unless his or her scheduled date of release falls more than 45 days after referral. Existing law also provides that in cases where an inmate's parole or temporary parole hold will expire before a probable cause hearing is conducted, the agency bringing the petition may request an urgency review by a judge of a superior court in accordance with specified procedures.

This bill instead would authorize the board, upon a showing of good cause, to order that a person referred to the State Department of Mental Health remain in custody for a full evaluation for no more than 45 days beyond the person's scheduled release date, and would revise procedures relating to probable cause review and hearing, including that the person remain in custody pending the completion of the hearing.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 6601.3 of the Welfare and Institutions Code is amended to read:

6601.3. Upon a showing of good cause, the Board of Prison Terms may order that a person referred to the State Department of Mental Health pursuant to subdivision (b) of Section 6601 remain in custody for no more than 45 days beyond the person's scheduled release date for full evaluation pursuant to subdivisions (c) to (i), inclusive, of Section 6601.

SEC. 2. Section 6601.5 of the Welfare and Institutions Code is amended to read:

6601.5. Upon filing of the petition and a request for review under this section, a judge of the superior court shall review the petition and determine whether the petition states or contains sufficient facts that, if true, would constitute probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon his or her release. If the judge determines that the petition, on its face, supports a finding of probable cause, the judge shall order that the person be detained in a secure facility until a hearing can be completed pursuant to Section 6602. The probable cause hearing provided for in Section 6602 shall commence within 10 calendar days of the date of the order issued by the judge pursuant to this section.

SEC. 3. Section 6602 of the Welfare and Institutions Code is amended to read:

6602. (a) A judge of the superior court shall review the petition and shall determine whether there is probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon his or her release. The person named in the petition shall be entitled to assistance of counsel at the probable cause hearing. Upon the commencement of the probable cause hearing, the person shall remain in custody pending the completion of the probable cause hearing. If the judge determines there is not probable cause, he or she shall dismiss the petition and any person subject to parole shall report to parole. If the judge determines that there is probable cause, the judge shall order that the person remain in custody in a secure facility until a trial is completed and shall order that a trial be conducted to determine whether the person is, by reason of a diagnosed mental disorder, a danger to the health and safety of others in that the person is likely to engage in acts of sexual violence upon his or her release from the jurisdiction of the Department of Corrections or other secure facility.

(b) The probable cause hearing shall not be continued except upon a showing of good cause by the party requesting the continuance.



(c) The court shall notify the State Department of Mental Health of the outcome of the probable cause hearing by forwarding to the department a copy of the minute order of the court within 15 days of the decision.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect public safety by preventing the immediate release of convicted violent sex offenders while the court determines their eligibility for intensive inpatient treatment, it is necessary that this act take effect immediately.

